

STIGLICH & HINCKLEY, LLP
MICHAEL HINCKLEY #161645
The CCDS Building
502 Seventh Street
San Francisco, CA 94103
Telephone: (415) 865-2539
Facsimile: (415) 865-2538
hinckley@stiglichhinckley.com

TRAIGER & HINCKLEY LLP
501 Fifth Avenue, Suite 506
New York, New York 10017
cheisenberg@traigerlaw.com

Attorney for Plaintiff
SUNNYSIDE DEVELOPMENT COMPANY LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SUNNYSIDE DEVELOPMENT
COMPANY LLC,

Plaintiff,

vs.

CAMBRIDGE DISPLAY TECHNOLOGY
LIMITED, CDT OXFORD LIMITED,
OPSYS LIMITED, and JOHN DOES I
through V,

Defendants.

No. C-08-1780-MHP

**AFFIRMATION OF CHRISTOPH C.
HEISENBERG IN OPPOSITION TO
CDT LIMITED's MOTION TO
DISMISS**

Courtroom 15, 18th Floor
Hon. Marilyn Hall Patel

1
2 1. I am an attorney with Traiger & Hinckley LLP, counsel to Plaintiff Sunnyside
3 Development Company LLC (“Sunnyside” or “Plaintiff”). I submit this Affirmation to
4 place before the Court certain documents referenced in Sunnyside’s opposition to the
5 motion of Defendant Cambridge Display Technology Limited to dismiss the complaint
6 herein. Additional exhibits 1 through 3, that third-party Ernst & Young LLP has
7 produced under confidentiality restrictions, are being submitted in a separate affidavit
8 filed in accordance with the Administrative Motion pursuant to Local Rule 79-5(d).
9

10 **The Documents Submitted Herewith**

11 2. Attached as **Exhibit 4** is a true and correct copy of CDT’s May 24, 2005 Form
12 8-K Filing announcing the entry by CDT into a memorandum of understanding with
13 Sumitomo Chemical Co., Limited for the formation of a joint-venture.

14 3. Attached as **Exhibit 5** is a true and correct copy of CDT’s November 18, 2005
15 Form 8-K Filing announcing the entry by CDT into a definitive joint-venture agreement
16 with Sumitomo Chemical Co., Limited, forming a joint-venture entity Sumation Limited.
17

18 4. Attached as **Exhibit 6** is a true and correct copy of the September 2007
19 announcement of Sumitomo Chemical Co., Ltd.’s acquisition of CDT, Inc. for \$12 per
20 share, or \$285 million.

21 5. Attached as **Exhibit 7** is a true and correct copy of *Hill v. Spread Trustee*,
22 [2006] EWCA Civ 542 decision.
23

24 6. Attached as **Exhibit 8** is a true and correct copy of the United Kingdom’s
25 Limitations Act of 1980.

26 7. Attached as **Exhibit 9** is a true and correct copy of a June 28, 2008 letter from
27 Sunnyside’s United Kingdom attorneys at Beachcroft, to Opsys Limited’s Liquidator,
28

1 Mr. Anthony Hannon of the Insolvency Service, requesting the appointment to pursue
2 claims on behalf of the estate under the United Kingdom's Insolvency Act of 1986 is.
3

4 8. On July 10, 2008 I spoke with Mr. Hannon about Sunnyside's application to
5 be appointed as a liquidator. Although Mr. Hannon was not in a position to commit that
6 Sunnyside would be authorized to proceed as liquidator, Mr. Hannon has led me to
7 believe it is likely Sunnyside would be appointed to proceed on behalf of creditors.
8


9 9. Attached as **Exhibit 10** is a true and correct copy of sections 139 and 231 of
10 the Insolvency Act of 1986.

11 10. Attached as **Exhibit 11** is a true and correct copy of the decision *Inland*
12 *Revenue Commissioners v Hashmi and anor*, CA, 3 May 2002 ¶23 issued by the Civil
13 Court of Appeals for England and Wales.

14 11. Attached as **Exhibit 12** is a true and correct copy of the Memorandum of Law
15 submitted by Cambridge Display Technologies, Inc. in the action *Sunnyside Development*
16 *Co. LLC v. Bank of New York*, No. 07-cv-8825 (LLS).
17

18 12. In accordance with 28 U.S.C. 1746, I affirm under the pains and penalties of
19 perjury that the foregoing is true and correct to the best of my knowledge.

20 Dated: New York, New York
21 August 18, 2008

22 
23 _____
24 Christoph C. Heisenberg
25
26
27
28